

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

MARK ANTHONY TROUTT, )  
                          )  
Plaintiff,             )  
                          )  
v.                      )       **Case No. CIV-08-1376-C**  
                          )  
JUSTIN JONES, Director O.D.O.C.; )  
*et al.*,              )  
                          )  
Defendants.            )

**MOTION TO SUPPLEMENT TRIAL COURT RECORD**

Defendants hereby respectfully request that the record before the Court be supplemented by the report attached hereto as Exhibit 1. Defendants submit that such supplementation is necessary for the Defendants to fully comply with the Court's order for said report. Defendants would further show the Court as follows:

1. During the preparation of the Objection to Report and Recommendation [Doc. 64], the undersigned counsel became aware that her bound working copy of the Special Report which was prepared by the facility in accordance with the Court's Order [Doc. 9] was not the same as the Special Report that was actually filed with the Court [Doc. 20].
2. Specifically, counsel discovered that the Special Report [Doc. 9] that was filed with the Court omits certain documents that are contained in counsel's copy, in particular, the results of the facility investigation of Plaintiff's claims and affidavits related thereto.

3. It appears that the inconsistency was likely an inadvertent clerical error that occurred during the scanning process, however, counsel has been unable to specifically identify what happened.
4. In order to insure compliance with this Court's Order Requiring Service and Special Report [Doc. 9], in furtherance of candor with the Court and to ensure the completeness of the record, Defendants assert that it would be appropriate to supplement the record by the filing of a complete copy of the special report as it was originally prepared by the facility.
5. Currently, the Court has before it the Report and Recommendation [Doc. 62] and the Defendants' objection [Doc. 64] thereto. Defendants assert that the filing of the supplemental special report does not require reconsideration by the magistrate of the issues pending herein, because the record already before the Court is sufficient to resolve the pending objection and Defendants' motion. Specifically, the arguments of the parties and the reasoning of the magistrate judge is largely statutorily based and relates primarily to the outcome of the state court proceedings. Moreover, any evidence relied on from the special report [Doc. 20] was duplicated in the submissions of the parties, including Plaintiff's amended complaint, Defendants' motion to dismiss and the responses thereto. Defendants believe that reconsideration of the issues in light of the supplement would be a waste of judicial resources and would unnecessarily prolong the litigation herein.

6. By submitting the supplement, Defendants do not seek to have the supplement considered in any way in regard to the resolution of the pending motion only to notify the Court of an error of omission in the record that was identified during the preparation of the objection and correct the same.

In light of the foregoing, Defendants respectfully request the Court resolve the pending motion on the record already before the Court and further grant Defendants leave to submit a supplemental special report that reflects the full report prepared by the facility for the purpose of accurately representing the facility's response to the Court's order directing its completion.

Respectfully submitted:

s/ Jill Tsiakilos  
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Jones, Kirby, and Cotner*

CERTIFICATE OF SERVICE

I hereby certify that on January 14, 2010 I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and served the attached document by U.S. Mail, postage prepaid, on the following person who is not a registered participant of the ECF System:

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*Plaintiff pro se*

s/ Jill Tsiakilos  
Jill Tsiakilos